

**Maine Revised Statutes**  
**Title 36: TAXATION**  
**Chapter 831: PROCEDURE AND ADMINISTRATION**

**§5276-A. SETOFF OF DEBTS AGAINST REFUNDS**

**1. Generally.** An agency of the State, including the University of Maine System or the Maine Community College System, that is authorized to collect from an individual or corporation a liquidated debt greater than \$25 shall notify in writing the State Tax Assessor and supply information necessary to identify the debtor whose refund is sought to be set off. The assessor, upon notification, shall assist the requesting agency by setting off that debt against a refund to which that individual or corporation is entitled under this Part. Liquidated child support debts that the Department of Health and Human Services has contracted to collect, pursuant to Title 19-A, section 2103 or 2301, subsection 2, are eligible, under the provisions of this section, for setoff against a refund due the obligated individual. The assessor shall provide the creditor agency with the name, address and social security number of each debtor whose refund is subject to setoff.

[ 1997, c. 393, Pt. A, §44 (AFF); 1997, c. 393, Pt. A, §43 (RPR); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF); 2003, c. 689, Pt. B, §6 (REV) .]

**2. Notice and hearing.** At the time a setoff is made, the assessor shall provide notice to the taxpayer of the setoff and of the taxpayer's right to request, within 60 days of the taxpayer's receipt of notice of the setoff, a hearing before the creditor agency. The hearing must be held in accordance with the provisions of the Maine Administrative Procedure Act, but is limited to the issues of whether the debt became liquidated and whether any postliquidation event has affected the liability.

[ 2011, c. 1, Pt. BB, §2 (AMD); 2011, c. 1, Pt. BB, §3 (AFF) .]

**3. Finalization of setoff.**

[ 1993, c. 395, §23 (RP) .]

**3-A. Transfer of proceeds.** After providing the notice required by subsection 2, the assessor shall transfer the setoff refund amount to the creditor agency or agencies.

[ 1993, c. 395, §23 (NEW) .]

**3-B. Finalization of setoff; release of refund to taxpayer.** If the taxpayer fails to make a timely request for hearing or a hearing is held before the creditor agency and a liquidated debt is determined to be due to that agency, the setoff is final except as determined by further appeal. The creditor agency must release to the taxpayer any setoff refund amount determined after hearing not to be a liquidated debt due to the agency within 90 days of such determination or as otherwise provided by the creditor agency in a promulgated rule.

[ 1993, c. 395, §23 (NEW) .]

**4. Appeal.** The decision of the agency seeking setoff as to the existence of a liquidated debt constitutes final agency action appealable under the Maine Administrative Procedure Act, Title 5, chapter 375.

[ 1981, c. 504, §4 (NEW) .]

**5. Collection fee.** A collection fee equal to the estimated costs incurred by the State Tax Assessor in assisting in the collection must annually be deducted from setoff refund amounts transferred to creditor agencies and deposited in the General Fund. If a creditor agency is either entitled to federal matching funds against all debts collected or required by federal regulations to specially handle debts collected, the State Tax Assessor shall transfer to that agency the gross proceeds from setoffs made in its behalf, and that agency shall promptly reimburse the collection fee to the State Tax Assessor for deposit in the General Fund.

[ 1993, c. 395, §23 (AMD) .]

**6. Accounting.** The creditor agency shall credit the account of the individual whose refund has been set off with the full amount of the setoff, including the collection fee retained by, or reimbursed to, the State Tax Assessor, except that the collection fee may not be credited to the account of an individual required to make restitution as provided in Title 17-A, section 1152, subsection 2-A.

[ 2005, c. 389, §9 (AMD) .]

**7. Priority.** In the event that claims from more than one agency are received by the State Tax Assessor with respect to one taxpayer, the State Tax Assessor shall set off against the refund due the taxpayer as many claims of the agencies as is possible in the following order of priority:

A. Liquidated child support debts owed to the Department of Health and Human Services; [1991, c. 564, (NEW); 2003, c. 689, Pt. B, §6 (REV).]

B. Fines owed to any of the courts; and [1991, c. 564, (NEW).]

C. All other claims in the order of their receipt by the State Tax Assessor. [1991, c. 564, (NEW).]

[ 1991, c. 564, (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

**8. Disclosure of information.** In any civil or criminal action in which a fine, forfeiture, order to pay or money judgment is entered in favor of the State or any agency or department thereof, or in any action in which counsel is assigned for an indigent party, the court may require the party so indebted to the State, its agencies or department, or the party for whom counsel has been assigned, to provide that party's social security number and other financial information under oath and on such forms as may be prepared by the Judicial Department in order to effectuate the purposes of this section. The Judicial Department may disclose social security numbers and financial information obtained in accordance with this subsection to agencies or departments of the State and to private collection agencies working under contract for the State for the purpose of collection of the amounts owed. A person who has access to or receives social security numbers or other financial information under this subsection shall maintain the confidentiality of the information and use it only for the purposes for which it was disclosed and may not further disclose it.

[ 2011, c. 547, §3 (AMD) .]

#### SECTION HISTORY

1981, c. 504, §4 (NEW). 1985, c. 501, §B21 (AMD). 1985, c. 652, §53 (AMD). 1985, c. 779, §83 (AMD). 1987, c. 402, §A192 (AMD). 1989, c. 508, §23 (AMD). 1991, c. 564, (AMD). 1993, c. 395, §23 (AMD). 1995, c. 639, §29 (AMD). 1995, c. 694, §D62 (AMD). 1995, c. 694, §E2 (AFF). 1997, c. 393, §A43 (AMD). 1997, c. 393, §A44 (AFF). 2003, c. 20, §002 (AMD). 2003, c. 20, §004 (AFF). 2003, c. 689, §B6 (REV). 2005, c. 389, §9 (AMD). 2011, c. 1, Pt. BB, §2 (AMD). 2011, c. 1, Pt. BB, §3 (AFF). 2011, c. 547, §3 (AMD).

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